

**1999**

# Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs

**3805P**

For calendar year 1999 or  
fiscal year beginning month \_\_\_\_\_ day \_\_\_\_\_ year 1999, and ending month \_\_\_\_\_ day \_\_\_\_\_ year \_\_\_\_\_.

|   |         |           |                             |  |  |  |
|---|---------|-----------|-----------------------------|--|--|--|
| First name  | Initial | Last name | Your social security number |  |  |  |
| Present home address (number and street or rural route) |         |           | PMB no.                     | Check this box if this is an amended return <input type="checkbox"/> |  |  |
| City, town, or post office                              |         |           | State                       | ZIP Code   |  |  |

**Part I Tax on Early Distributions** – Complete this part if a taxable distribution was made from your qualified retirement plan (including an IRA other than an education (Ed) IRA), annuity contract, or modified endowment contract before you reached age 59½ (or was incorrectly indicated as such on your Form 1099-R – see instructions).

- |   |  |   |
|---|--|---|
| 1 | Early distributions included in gross income. See instructions   | 1 |
| 2 | Distributions excepted from additional tax. See instructions. Enter exception number from instructions <input type="checkbox"/> <input type="checkbox"/>   | 2 |
| 3 | Amount subject to additional tax. Subtract line 2 from line 1  | 3 |
| 4 | Tax due. Multiply line 3 by 2½% (.025). Enter here and on Form 540, line 36 or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions | 4 |

**Caution:** If any amount on line 3 was a distribution from a SIMPLE retirement plan, you must multiply that distribution by 6% (.06) instead of 2½%. See instructions for more information.

**Part II Tax on Distributions from Ed IRAs Not Used for Educational Expenses** – Complete this part if a distribution was made from your Ed IRA and was not used for educational expenses.

- |   |  |   |
|---|--|---|
| 5 | Taxable amount from federal Form 8606, line 30. See instructions   | 5 |
| 6 | Distributions excepted from additional tax. See instructions   | 6 |
| 7 | Amount subject to additional tax. Subtract line 6 from line 5  | 7 |
| 8 | Tax due. Multiply line 7 by 2½% (.025). Enter here and on Form 540, line 36 or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions | 8 |

**Part III Tax on Distributions from Medical Savings Accounts (MSAs)** – Complete this part if you reported a taxable distribution from an MSA on federal Form 8853.

- |      |  |     |
|------|--|-----|
| 9    | Taxable MSA distribution from federal Form 8853, line 10   | 9   |
| 10 a | If you meet any of the exceptions to the 10% tax (see instructions), check here <input type="checkbox"/>   | 10a |
| b    | Otherwise, multiply line 9 by 10% (.10). Enter the result here and include it in the total on Form 540, line 36, or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions  | 10b |
| 11   | Additional tax due from Medicare+Choice MSA distributions. Enter the amount from federal Form 8853, line 15b on this line. Also include this amount in the total on Form 540, line 36, or Form 540NR, line 45. If you are not required to file a California income tax return, sign this form below and refer to the instructions. Form 540NR filers, see instructions | 11  |

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. It is unlawful to forge a spouse's signature.

Your signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature of paid preparer (declaration of preparer is based on all information of which preparer has any knowledge.) \_\_\_\_\_ Paid preparer's SSN/FEIN/PTIN \_\_\_\_\_

Firm's name (or yours if self-employed) and address \_\_\_\_\_ Date \_\_\_\_\_

# Instructions for Form FTB 3805P

## Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs

### General Information

In general, California tax law conforms to the Internal Revenue Code (IRC) as of January 1, 1998. However, there are continuing differences between California and federal tax law. California has not conformed to most of the changes made to the IRC by the federal Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (Public Law 105-206) and has not conformed to any of the changes made by the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277).

#### Changes to Note

- The instructions for Part I now include a worksheet to figure the amount of any Roth IRA distribution to include on line 1.
- Part III now includes a line to report any additional tax from Medicare+Choice MSA distributions.

### A Purpose

Use this form to report any additional tax you may owe on an early distribution from an IRA, other qualified retirement plan, annuity, a modified endowment contract, or a medical savings account (MSA).

### B Who Must File

You **must** file form FTB 3805P if you:

- Received a taxable early distribution from a qualified retirement plan and a distribution code other than 2, 3, or 4 is shown in box 7 of federal Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.;
- Owe the tax on early distributions from your IRA, other qualified retirement plan, annuity, or modified endowment contract and you incorrectly have an exception code in box 7 of Form 1099-R;
- Owe a tax because you received distributions from an Ed IRA in excess of amounts you spent for educational expenses (complete Part II);
- Received taxable distributions from an MSA; or
- Meet an exception to the tax on early distributions and distribution code 2, 3, or 4 is **NOT** shown or is incorrect on Form 1099-R. (You must file even if you do not owe any tax.)

You **do not** have to file form FTB 3805P if you:

- Rolled over the taxable part of all distributions you received during the year into another qualified plan within 60 days of receipt; or
- Received an early distribution from your plan but meet an exception to the tax (distribution code 2, 3, or 4 must be correctly shown on federal Form 1099-R).

California and federal laws are the same for the tax on early distributions except for the rate of tax assessed. However, the amount of an IRA or Keogh distribution included in income may differ for state and federal tax purposes. Also, California does not have taxes similar to the excess contributions tax on traditional IRAs, tax on excess contributions to Roth IRAs, tax on excess contributions to Ed IRAs, tax on excess contributions to MSAs, or tax on excess accumulation in qualified retirement plans.

Such federal taxes are figured on federal Form 5329, Additional Taxes Attributable to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts, and MSAs.

**Joint Returns.** Each spouse must complete a separate form FTB 3805P for taxes attributable to his or her distribution from a qualified retirement plan as described above. If both spouses owe a tax on early distributions, enter the combined tax from both forms on Form 540, line 36 or Form 540NR, line 45.

**IRA Contributions.** Do not file form FTB 3805P to report a deduction for contributions to your IRA or Keogh plan. See the instructions for Schedule CA (540), California Adjustments — Residents, or Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents.

If you made a nondeductible IRA or Keogh contribution in prior years, refer to FTB Pub. 1005, Pension and Annuity Guidelines, for information on how to compute the taxable portion of your IRA distribution subject to the additional tax.

### C When and Where to File

If you are required to file a 1999 Form 540, California Resident Income Tax Return, or Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, you must attach your 1999 form FTB 3805P to your return.

If you do not have to file Form 540 or Form 540NR but owe a tax on form FTB 3805P or otherwise have to file form FTB 3805P as described in General Information B, Who Must File, you must still complete and file this form with the Franchise Tax Board (FTB) by the due date for filing Form 540 or Form 540NR. Send your completed form FTB 3805P and your check or money order payable to the "Franchise Tax Board" for the total of any taxes due. Write your social security number and "1999 FTB 3805P" on your check or money order.

Mail to:

FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0001

If you are paying tax for a previous year, you must complete that tax year's version of form FTB 3805P. If you have filed your Form 540 or Form 540NR for the prior year and you have no adjustments to income that require you to file Form 540X, Amended Individual Income Tax Return, file only form FTB 3805P.

If you are filing form FTB 3805P separately from Form 540, Form 540NR, or Form 540X, you must sign form FTB 3805P. Include a check or money order payable to the "Franchise Tax Board" for the total amount of any tax due. Write your social security number and "FTB 3805P" on your check or money order.

### D Definitions

**Qualified Retirement Plan** — A qualified retirement plan includes:

- A qualified pension, profit-sharing, and stock bonus plan (including a Keogh plan and a qualified cash or deferred arrangement (CODA) described in IRC Section 401(k));
- A qualified annuity plan;
- A tax-sheltered annuity contract; or
- An individual retirement account or an individual retirement annuity.

**Note:** Ed IRAs and MSAs are not qualified retirement plans.

**Traditional IRA** — An individual retirement account or an individual retirement annuity described in IRC Sections 408(a) and (b), including a simplified employee pension (SEP) IRA, but not including a SIMPLE IRA or a Roth IRA.

**SEP IRA** — An employer-sponsored plan under which an employer can make contributions to IRAs established for its employees. The term SEP IRA means an IRA that receives contributions made under a SEP. The term SEP includes a salary reduction SEP described in IRC Section 408(k)(6).

**SIMPLE Retirement Plan** — A written arrangement established under IRC Section 408(p) that provides a simplified tax-favored retirement plan for small employers. A SIMPLE retirement plan can be an individual retirement account or an individual retirement annuity.

**Roth IRA** — An IRA that meets the requirements of IRC Section 408A. Generally, for purposes of this form, the same rules that apply to traditional IRAs apply to Roth IRAs. For additional information about Roth IRAs, see federal Pub. 590, Individual Retirement Arrangements (IRAs), federal Form 8606, Nondeductible IRAs, and FTB Pub. 1005, Pension and Annuity Guidelines.

**Early Distributions** — Generally, any distribution from your qualified retirement plan, annuity, or modified endowment contract that you receive before you reach age 59½ is an early distribution. The portion of the early distribution that is included in income is subject to an additional 2½% tax. (If the early distribution is from a SIMPLE retirement plan, the portion included in income is subject to an additional 6% tax.)

**Rollover** – A tax-free distribution (withdrawal) of assets from one qualified retirement plan that is contributed to another plan. You must complete the rollover within 60 days following the distribution for it to qualify for tax-free treatment. Refer to federal Pub. 590 for details.

**Tax on Early Distributions.** The tax on early distributions from qualified retirement plans does not apply to:

- 1999 IRA contributions withdrawn during the year or 1998 excess contributions withdrawn in 1999 before the filing date (including extensions) of your 1998 income tax return;
- Excess IRA contributions for years before 1998 that were withdrawn in 1999, and 1998 excess contributions withdrawn after the due date (including extensions) of your 1998 income tax return, if no deduction was allowed for the excess contributions, and the total IRA contributions for the tax year for which the excess contributions were made were not more than \$2,000 (or if the total contributions for the year included employer contributions to a SEP, \$2,000 increased by the smaller amount of the employer contributions to the SEP or \$30,000);
- The part of your IRA distributions that represents a return of nondeductible IRA contributions figured on federal Form 8606;
- The part of your IRA distribution that represents a return of nondeductible contributions made before 1987 or annual contributions (not rollover contributions from employer-sponsored plans) plus earnings made as a nonresident;
- Distributions rolled over to another retirement arrangement or plan;
- Distributions of excess contributions from a qualified cash or deferred arrangement;
- Distributions of excess aggregate contributions to meet nondiscrimination requirements for employer matching and employee contributions;
- Distributions of excess deferrals; and
- Amounts distributed from unfunded deferred compensation plans of tax-exempt or state and local government employers. (IRC Section 457 plans.)

See the instructions for line 2 for other distributions that are excepted from the tax.

**Education (Ed) IRA** – A trust or custodial account described in IRC Section 530 that is created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the designated beneficiary of the account.

Taxpayers may deposit up to \$500 per year into an Ed IRA for a child under age 18. The total contributions (by all taxpayers) for the child during the tax year may not exceed \$500 and each contributor is subject to the contributions limit of IRC Section 530(c) based on adjusted gross income.

Distributions from an Ed IRA that exceed the child's qualified higher education expenses in a tax year are generally subject to income tax and to an additional tax of 10% (figured in Part II of form FTB 3805P).

For additional information, see federal Form 8606.

**A Medical Savings Account (MSA)** – A tax-exempt trust or custodial account set up in the United States exclusively for paying the qualified medical expenses of the account holder or the account holder's spouse or dependent(s) in conjunction with a high deductible health plan (HDHP).

Federal Form 8853 is used to report general information about new MSAs, to figure your MSA deduction, and to figure your taxable distribution for MSAs. California law is the same as federal law regarding MSA contributions and deductions but is different regarding the amount of additional tax on MSA distributions not used for qualified medical expenses. The additional tax is 10% for California.

Therefore, for California purposes, there is no separate form to file to report general information about new MSAs or to figure your MSA deduction. However, if you have a taxable MSA distribution, you must file form FTB 3805P to figure the additional tax.

## Specific Line Instructions

### Part I — Tax on Early Distributions

#### Line 1 – Early Distributions Included in Gross Income

**Qualified Retirement Plans (including IRAs).** Enter the amount of distributions included in gross income you received from a qualified retirement plan, including traditional IRAs and Roth IRAs (and income

earned on excess contributions to your IRAs), before you reached age 59½. The amount of the early distributions you must include in gross income for California purposes may differ from the amount reported on your federal return if the amount of contributions you deducted for California was different than the federal amount or if you were a nonresident when you made IRA contributions. You must report the difference on Schedule CA (540) or Schedule CA (540NR).

For Form 540NR filers, the amount entered on line 1 is the taxable amount of early distributions reported on Schedule CA (540NR), line 15, column E, or Schedule CA (540NR), line 16, column E.

**Annuity contracts.** If you receive any amounts under an annuity contract from distributions made before reaching age 59½, such amounts may also be subject to an additional 2½% tax on the portion which is includible in gross income. Refer to IRC Section 72(q) and IRS Publication 575, Pension and Annuity Income, for details. Enter on line 1 the distribution included in gross income.

**Modified endowment contracts.** In general, if you received any amounts under a modified endowment contract (as defined in IRC Section 7702A), entered into after June 20, 1988, from distributions before reaching age 59½, such amounts are also subject to an additional 2½% tax on the part of the distribution that is includible in gross income. Enter on line 1 the distribution included in gross income.

**Prohibited Transactions.** If you engaged in a prohibited transaction, such as **borrowing** from your individual retirement **account** or **annuity**, or pledging your individual retirement **annuity** as security for a loan, your account or annuity no longer qualified as an IRA on the first day of the tax year in which you did the borrowing or pledging. You are considered to have received a distribution of the entire value of your account or annuity at that time. Using your IRA as a basis for obtaining a benefit is also a prohibited transaction. If you were under age 59½ on the first day of the taxable year, enter on line 1 the entire value of the account that represents taxable income.

**Pledging of Account.** If, during your taxable year, you use any part of your individual retirement account as security for a loan, that part is considered distributed to you at the time pledged. If you were under age 59½ at the time of the pledge, enter the amount pledged on line 1.

**Collectibles.** If your IRA trustee invested your funds in collectibles, you are considered to have received a distribution equal to the cost of any "collectible." Collectibles include works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and certain other tangible personal property. The cost of any collectible in which you invested funds of your IRA in 1999 is deemed to be a distribution to you in 1999. If you were under age 59½ when the funds were invested, enter on line 1 the cost of the collectible included in gross income.

**Exception.** Your IRA may invest in U.S. one, one-half, one-quarter, and one-tenth ounce gold coins and one ounce silver coins minted by the U.S. Treasury Department. Beginning in 1998, your IRA can invest in certain platinum coins and certain gold, silver, palladium, and platinum bullion.

#### Roth IRA Distributions

If you received a Roth IRA distribution in 1999, you will need to refer to federal Form 8606 and FTB Pub. 1005, Pension and Annuity Guidelines, to complete the worksheet below. Use the following worksheet to figure the amount to include on line 1 of form FTB 3805P:

- 1 Enter the amount from your 1999 FTB Pub. 1005, page 8, worksheet 1, line 19 ..... 1 \_\_\_\_\_
- 2 Refigure the amount from your 1999 federal Form 8606, line 26 using California amounts, and enter the result ..... 2 \_\_\_\_\_
- 3 Enter the amount from your 1998 FTB Pub. 1005A, line 17, page 3, Worksheet Part C ..... 3 \_\_\_\_\_
- 4 Enter the amount from your 1998 federal Form 8606, line 20 ..... 4 \_\_\_\_\_
- 5 Subtract line 4 from line 3 ..... 5 \_\_\_\_\_
- 6 Add line 1, line 2, and line 5 ..... 6 \_\_\_\_\_
- 7 Enter the amount from your 1999 federal Form 8606, line 19 ..... 7 \_\_\_\_\_
- 8 Enter the smaller of line 6 or line 7. This is the amount to include on line 1 of form FTB 3805P ..... 8 \_\_\_\_\_

## Line 2 – Distributions Excepted From Additional Tax

The additional tax does not apply to certain distributions specifically excepted by the IRC. Enter on line 2 the excepted amount. In the boxes on line 2, enter the applicable exception number (01 – 11) from the following list.

**Form 540NR Filers:** Enter the portion of the taxable distribution (Schedule CA (540NR), line 15 or line 16) that qualifies for an exception.

### No. Exception

- 01** Distribution due to separation from service in or after the year of reaching 55 (applies only to qualified employee plans).
- 02** Distribution made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from a qualified employee plan, payments must begin after separation from service).
- 03** Distribution due to total and permanent disability.
- 04** Distributions due to death (does not apply to modified endowment contracts).
- 05** Distribution to the extent you have medical expenses deductible under IRC Section 213 (does not apply to annuity or modified endowment contracts).
- 06** Distributions made to an alternate payee under a qualified domestic relations order (applies only to qualified employee plans).
- 07** Distributions made to unemployed individuals for health insurance premiums (applies only to IRAs).
- 08** Distributions made for higher education expenses (applies only to IRAs).
- 09** Distributions made for purchase of a first home, up to \$10,000 (applies only to IRAs).
- 10** Distributions due to an IRS levy.
- 11** Other (see instructions below).

**Other exceptions.** In addition to the exceptions listed, the tax does not apply to any distributions from a plan maintained by an employer if:

- You separated from service by March 1, 1986;
- As of March 1, 1986, your entire interest was in pay status under a written election that provides a specific schedule for distribution of the entire interest; and
- The distribution is actually being made under the written election.

Also, distributions from annuity contracts are not subject to the additional tax on early distributions to the extent that the distributions are allocable to an investment in the contract before August 14, 1982.

Distributions that are dividends paid with respect to stock described in IRC Section 404(k) are not subject to the additional tax.

If any of these exceptions apply, enter the distribution amount on line 2 and exception number 11 in the boxes provided. For additional exceptions applicable to annuity contracts, see IRC Section 72(q)(2) and IRS Publication 575.

Also enter on line 2 the amount of a distribution you received when you were age 59½ or older, if you received federal Form 1099-R for a distribution that incorrectly indicated an early distribution (code 1).

**Line 3** – Subtract the amount of distributions excepted from tax on line 2 from the amount of early distributions included on line 1. Enter the result on line 3. This is the amount of your distribution subject to tax.

**Line 4** – Multiply line 3 by 2½% (.025). However, if any amount on line 3 was a distribution from a SIMPLE retirement plan, you must multiply that amount by 6% (.06) instead of 2½% (.025). SIMPLE distributions are included in box 1 and box 2a of federal Form 1099-R and are designated with a code “S” in box 7.

Enter the total on line 4 and on Form 540, line 36, or Form 540NR, line 45. If you are not required to file Form 540 or Form 540NR, see General Information C, When and Where to File.

## Part II — Tax on Distributions from Ed IRAs Not Used for Educational Expenses

**Line 5** – Enter the amount from federal Form 8606, line 30.

**Form 540NR Filers:** Enter the taxable amount of Ed IRA distributions included on Schedule CA (540NR), line 15, column E.

**Line 6** – Enter on line 6 the total amount that can be excepted.

The 2½% (.025) additional tax does not apply to distributions that are:

- Due to the death or disability of the beneficiary;
- Made on account of a scholarship, allowance, or payment described in IRC Section 25A(g)(2); and,
- Taxable solely because you chose to waive any exclusion you may be entitled to for your 1998 qualified higher education expenses. (This election was made by checking the box on federal Form 8606, line 29.)

If you are not required to file Form 540 or Form 540NR, see General Information C, When and Where to File.

**Form 540NR Filers:** Enter the portion of the taxable Ed IRA (Schedule CA (540NR), line 15, column E) that qualifies for the exception.

**Line 8** – If you are not required to file Form 540 or Form 540NR, see General Information C, When and Where to File.

## Part III — Medical Savings Account (MSA) Distributions

### MSA Distributions

California law is the same as federal law regarding taxable distributions from MSAs, except the additional tax on distributions not used for qualified medical expenses is 10% for California. Complete federal Form 8853 before completing this part. You need to complete line 9 and line 10 only if you have an amount on federal Form 8853, line 10.

**Line 9** – Enter the amount from federal Form 8853, line 10.

**Form 540NR Filers:** Enter the taxable amount of MSA distributions that was included on Schedule CA (540NR), line 21, column E.

**Line 10a** – Check this box if you checked the box on federal Form 8853, line 11a.

Any distribution amount that is excepted from the additional tax for federal purposes is also excepted from the additional tax for California. Refer to the instructions for federal Form 8853, line 11a.

**Form 540NR Filers:** To figure the amount of the distribution that is subject to the additional 10% tax, do not include any portion of the taxable MSA (Schedule CA (540NR), line 21, column E) distributions that qualifies for an exception.

**Line 10b** – If you are not required to file Form 540 or Form 540NR, see General Information C, When and Where to File..

### Medicare+Choice MSA Distributions

California law is the same as federal law regarding distribution from Medicare+Choice MSAs. Any distribution that is subject to the 50% tax under IRC Section 138(c)(2) is also subject to a 50% tax for California purposes. Refer to the instructions for 1999 federal Form 8853, Section B, for more information.

**Line 11** – Enter the same amount you entered on your 1999 federal Form 8853, line 15b.

**Form 540NR Filers:** Enter 50% of the portion of the amount that you included on line 14 of your 1999 federal Form 8853 (that does not qualify for any of the exceptions to the 50% tax) that was reported on Schedule CA (540NR), line 21, column E.